

PART 1
Program Development
Chapter 5

State Funded Projects
and Special Program

Locally Administered Projects (LAP) Manual

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Chapter 5

STATE FUNDED PROJECTS AND SPECIAL PROGRAM FUNDED PROJECTS

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5.1 INTRODUCTION

Because some projects are funded through special funding sources that may have specific requirements related to the funding source, and because some localities have programmatic responsibility for their entire construction program, there are additional guidance documents or manuals that LPAs may need to reference when administering those projects. This chapter will address general exceptions to or differences in the typical project development and oversight processes for state and federal aid projects. The following types of projects are addressed in more detail in the remainder of this chapter:

- **State-aid projects:** Projects which do not receive FHWA federal aid or will not otherwise be developed as eligible for federal aid but will be reimbursed by VDOT with special or formula allocations.
- **Revenue Sharing Program Projects:** Projects which are funded solely through the VDOT Revenue Sharing program and local government funds. These are a subset of state-aid projects and all streamlining opportunities of the state-aid projects are applicable. Currently there is a separate Revenue Sharing program manual that addresses programmatic requirements of the program.
- **Access Program Projects:** Projects which are funded solely through the VDOT Access Program and local government funds. These include economic development, recreational, and airport access projects. These are a subset of state-aid projects and all streamlining opportunities of the state-aid projects are available. Currently there is a separate access program manual that addresses programmatic requirements of the program.
- **Transportation Alternatives Program (formerly Enhancement):** These projects receive federal aid and are usually managed by local

governments and some state agencies. Differences in the project development process for this program are identified as Special Program Requirements at the end of each applicable section.

- Urban Construction Initiative (UCI): Localities managing projects under a UCI Programmatic Agreement: Some local governments manage their construction programs through programmatic agreements. Differences in the project development process for this program are identified as Special Program Requirements at the end of each applicable section.
- Design-Build (DB): These projects are considered an alternative to the traditional project delivery method. DB delivery can be considered only after the Locality and VDOT have determined that it is not in the public best interest to follow the normal process of the typical design-bid-build approach. Preliminary plans are typically developed to a minimum 30% level before the Request for Qualifications (RFQ) / Request for Proposals (RFP) are advertised. All locally administered DB projects are generally considered Tier-2 high risk, thus requiring increased District oversight and Central Office approvals. Additional coordination is necessary between the Locality and VDOT's Alternative Project Delivery Division.

5.2 STATE-AID PROJECTS

5.2.1 [Revenue Sharing Program](#)

5.2.2 [Access Programs \(Economic Development, Recreational and Airport\)](#)

All projects funded with state formula allocations will be developed to qualify for federal aid. This section is only applicable to projects that are ineligible for federal aid or have been exempted from being developed as federal-aid projects due to funding source (revenue sharing, access, coal severance, etc) or have been provided a project specific exemption.

For state aid projects, responsibility for compliance with applicable state and federal laws and regulations rests entirely with the local government. VDOT does

not act in a compliance or regulatory role. VDOT's oversight of these projects is intended to protect VDOT's liabilities and interests and will focus on activities which provide that protection. State and federal agencies provide regulatory compliance oversight for these projects. Accordingly, many of the LPA submittal requirements and VDOT oversight activities outlined in this document are not applicable for state-aid projects and, where necessary, are identified throughout the manual.

VDOT will require a certification statement, found in [Appendix 5-A](#), from the LPA, that all applicable state and federal requirements have been met, in place of many of the VDOT oversight activities normally performed for federal-aid projects. This certification is provided to the Project Coordinator prior to award of the construction contract by the LPA. The Project Coordinator will upload the certification to ProjectWise. Failure to provide this certification may result in a loss of reimbursement. During construction, the LPA will be required to submit a certification of compliance, as outlined in [Appendix 13.1 F](#), with each invoice submitted for reimbursement.

The following is an overview of LPA requirements and VDOT oversight activities for state-aid projects:

Design Requirements/Plan Review

For projects which will be maintained by VDOT, the LPA will design and submit plans for review, in accordance with [Chapter 12](#), of this manual. The frequency of plan reviews is determined by the Project Coordinator and the LPA based on the project risk (see [Chapter 9](#)). VDOT's design reviews will be to ensure that appropriate standards are being used and that the road as designed will not create maintenance issues.

For projects maintained by the LPA, the LPA will certify that the plans have been developed in accordance with American Association of State Highway and

Transportation Officials (AASHTO) standards. VDOT will perform plan reviews and will provide technical assistance, only as requested by the LPA.

Environmental Coordination

The State Environmental Review Process (SERP) only applies to state-funded projects, where the total project cost is \$500,000 or more (PE, RW, CN). The SERP will be performed by the VDOT District Environmental Manager (or designee) on the behalf of the LPA, in accordance with the Memorandum of Agreement between the Secretaries of Transportation and Natural Resources (See [Chapter 15.3.2](#) for additional guidance). Any conditions of regulatory approval resulting from SERP are the responsibility of the LPA to fulfill.

The LPA is solely responsible for conducting all environmental work needed in support of the project. Additionally, the LPA is expected to meet and obtain all necessary regulatory requirements and approvals to include permits, and licenses and for complying with all applicable state/federal environmental laws and regulations. VDOT Environmental staff is available as a resource to the LPA. However, VDOT Environmental has no role in construction monitoring for state-funded, locally-administered projects. Construction monitoring for environmental compliance is the sole responsibility of the LPA. The LPA must coordinate with regulatory agencies to determine if/what permits are necessary. Compliance with permit conditions is the sole responsibility of the LPA. Project permitting can be challenging as well as time consuming, and consultant assistance is highly recommended if qualified in-house staff is not available to assist with this undertaking.

Prior to project award, the LPA will certify their compliance with all environmental requirements through the completion and submission of Appendix-5A (Certification Form for State Funded Projects) to the VDOT Project Coordinator.



NEPA does not apply to State Funded projects!

For detailed information on the Environmental requirements for state funded projects please refer to [Chapter 15.3](#) of this manual. Even if a project is determined to be PEI-exempt, the LPA is still required to obtain any environmental clearances necessary for compliance with state/federal regulatory requirements.

Public Involvement

LPAs have specific state code requirements for public involvement of local government Capital Improvement Projects. Where applicable, LPAs must include the projects in their Capital Improvement Program and follow the Code of Virginia public involvement requirements applicable to the development of capital projects ([24VAC30-380-10 – General Provisions](#)).

Right of Way Acquisition

LPAs acquiring property in their own name, under their own authorities, must meet State requirements as outlined in the Code of Virginia. VDOT does not provide certification of local government compliance with these laws. However, LPAs which will be reimbursed through VDOT programs or acquiring Rights of Way that will be subsequently maintained by VDOT must submit a request for and obtain a ROW notice to proceed with acquisitions prior to actual acquisition activities. VDOT's role during this authorization will be solely to verify that the LPA is only acquiring necessary lands to build and maintain the project. Compliance with Virginia Code requirements regarding relocations and property acquisitions rests solely with the local government.

For projects that will be subsequently maintained by VDOT, construction and materials acceptance practices are expected to be in conformance with [Chapter 13](#). Prior to installation, the Department must approve materials incorporated into the project. VDOT will provide oversight to verify adequate construction and an acceptable final product for any project that will ultimately be maintained by VDOT in a manner similar to developer projects constructed under a land-use permit. VDOT site reviews will include a written follow-up of any deficiencies that may impact VDOT's acceptance of the project.

For projects that will be subsequently maintained by the LPA, construction practices must adhere to the LPA's contract requirements.

5.2.1 Revenue Sharing Program

Projects funded solely with revenue sharing funds will follow the same project oversight requirements described above for the phases being funded with revenue sharing funds. Projects using federal aid will meet federal-aid requirements regardless of the amount of revenue sharing or other funding. Projects fully funded through the revenue sharing program are considered approved for advertisement by the CTB at the time of project allocation and further CTB or department approval is not required for advertisement or award. However, the certification of compliance in [Appendix 5-A](#) (Certification Form for State Funded Projects) must be submitted prior to project award.

The [Revenue Sharing Program Guide](#) provides further guidance on project implementation since these projects are not approved through the typical programming process.

5.2.2 Access Programs (Economic Development, Recreational and Airport)

The Access programs managed by VDOT (economic development, recreational and airport) provide funding to offset the cost of road projects that meet very specific criteria. When funding is approved, the CTB's resolution outlines the contingencies that must be met in order for the LPA to receive reimbursement. The LPA is always responsible for acquisition of ROW if necessary, utility adjustments and all permits. The CTB resolution specifically addresses that SERP must be addressed, the ROW must be certified by the LPA and that an agreement must be executed. These projects are considered approved for advertisement by the CTB at the time of project allocation and further CTB or Department approval is not required. However, the certification of compliance in [Appendix 5A](#) must be submitted prior to project award.

VDOT's role with these projects is to ensure CTB contingencies are met prior to reimbursement and provide assistance as needed during the project. For streets that will be accepted for maintenance by VDOT, the plans will be reviewed and VDOT will perform spot inspections as deemed necessary and a final inspection prior to acceptance to ensure the road meets minimum criteria to be accepted into the system of state highways, as applicable. The appropriate Access Program Guide should be consulted for funding guidance.

5.3 TRANSPORTATION ALTERNATIVES PROGRAM (Formerly Enhancement Program)

Projects that receive Transportation Alternatives funds must be managed in the same manner as any other federal-aid highway project. However, projects selected under the previous Enhancement program and are off highway rights of way and not linked to a regular federal-aid project have specific exemptions from certain federal-aid requirements. These exemptions are identified in federal law and further clarified in several FHWA directives and guidance documents. The VDOT PC should be consulted regarding whether the project qualifies for the more flexible approach prior to assuming it is available for a particular project.

Also, for TAP projects initiated in 2008 and later, VDOT will provide the required NEPA document and conduct the associated coordination (i.e. the PCE or CE).

A summary of federal requirements applicable on NHS projects, non-NHS projects or on projects off federal-aid highway rights of way is available at: <http://www.fhwa.dot.gov/programadmin/contracts/tabover.cfm>. Additionally, [FHWA's Contract Administration Core Curriculum Manual](#) should be used as a resource to clarify these exemptions.

The [Transportation Alternatives Program Procedure Manual](#) and [Transportation Alternatives Program Guide](#) continue to be excellent reference guides for Transportation Alternatives projects since they address some of the unique aspects of this program.

5.4 URBAN CONSTRUCTION INITIATIVE

Urban Municipalities that have assumed full responsibility for their construction program are provided more autonomy than localities administering individual projects. The programmatic agreement for these localities outlines their commitment to meet all applicable federal requirements. Project Development processes specific to the Urban Construction Initiative (UCI) are identified in this manual. Policy and Program items can be found in the [Urban Maintenance and Construction Manual](#) (aka Urban Manual).

5.5 DESIGN-BUILD PROJECT DELIVERY

5.5.1 [Potential Design-Build Projects](#)

5.5.2 [Design-Build Project Initiation](#)

5.5.3 [NEPA and Public Involvement](#)

5.5.4 [Design-Build Procurement](#)

5.5.5 [Quality Assurance and Quality Control](#)

5.5.6 [Project Development and Risk](#)

5.5.7 [State-aid Design-Build Appendix-A Submission Requirements](#)

Design-build (D-B) project delivery is an alternative to the traditional design-bid-build method of delivering transportation projects. D-B delivery method promotes opportunities for innovation, flexibility in design and risk sharing by providing the Design-Builder responsibility for both design and construction of the project. D-B allows for construction activities to take place concurrently with design, resulting in expedited project completion. VDOT has an active and experienced D-B program. However, the D-B process is new to many local governments and a thorough understanding of the processes and risks associated with the D-B method is vital so that the LPA can make an informed decision regarding the use of the D-B method. This section of the LAP Manual provides an introduction to the D-B process and is only intended to provide the LPA a basic overview of the D-B approach, focusing on some significant differences from the traditional design-bid-build (D-B-B) process.

VDOT's [Guidance for Locally Administered Design-Build Projects](#) (hereinafter referred to as "D-B LAP Guidance") outlines all necessary submittals required of the LPA and must be complied with by LPAs administering federal aid D-B projects.

VDOT's D-B LAP Guidance also provides a table which provides a complete list of D-B tasks which differ from the traditional D-B-B process. To gain a more detailed understanding of the D-B process and VDOT's oversight expectations, the LPA and District Project Coordinator should also consult VDOT's Alternative Project Delivery Office [web page](#) which includes several guidance documents including, [Guidance for Locally Administered Design-Build Projects](#), [Frequently Asked Questions](#), [VDOT's Design-Build Procurement Manual](#) and [VDOT's Minimum Requirements for Quality Assurance and Quality Control on Design Build and P3 Projects](#).

5.5.1 Potential Design-Build Projects

The following categories are types of projects that generally may be suited for Design-Build contracts:

- Emergency and repair projects
- Projects directly impacting public safety
- Projects directly supporting Economic Development/Transportation Alternatives (formerly enhancement)
- Projects using specialty or innovative designs and construction methods or techniques
- Projects to maximize the use of available funding (i.e. Federal, Bonds, FRANS, etc.)
- Projects deemed by VDOT to have expedited scheduling requirements
- Projects that do not lend themselves to normal Design-Bid-Build procedures

Before an LPA makes a final determination regarding the use of the D-B method for any project using federal or state aid, it is important that their VDOT Project Coordinator be contacted to discuss the suitability of the project and the capabilities of the LPA to deliver the project using the D-B method.

5.5.2 Design-Build Project Initiation

In accordance with State Code, Section [33.2-269](#) these projects may be awarded after a written determination is made by the Chief Executive Officer of the locality *“that delivery of the projects must be expedited and that it is not in the public interest to comply with the design and construction contracting procedures normally followed.”* Such determination shall be retained for public inspection and a copy must be submitted to the VDOT Project Coordinator.

This written determination, or “Finding of Public Interest” (FOPI), is required to be submitted, along with the Request to Administer (RtA) form to the District Project Coordinator.

All D-B projects, regardless of size or construction costs, are Tier 2 projects and the final RtA approval rests with the Chief Engineer.

D-B projects become part of VDOT's Six Year Improvement Plan and all funding necessary for completion of preliminary engineering, right of way, and construction must be identified before VDOT will approve the project and enter into an agreement with the LPA. For federal-aid oversight projects, FHWA approval is required prior to releasing the Request for Proposal (RFP) document. FHWA approval of the RFP document carries the same significance as PS&E approval. Federal authorizations must be obtained before any reimbursable work by the LPA or their consultants can begin.

5.5.3 NEPA and Public Involvement

Prior to the release of the RFP, it is VDOT's practice to complete the National Environmental Policy Act (NEPA) Document; any deviation from this practice requires special approval from FHWA¹. The NEPA Document is required to obligate right of way and construction funds. In addition, applicable public involvement requirements must also be met prior to the release of the RFP.

5.5.4 Design-Build Procurement

LPAs will often hire a consultant to develop preliminary project information or to assist in or prepare the RFP and other procurement documents. Generally, consultants that have assisted in the preparation of an RFP are precluded from participating in the team responding to the RFP. However, a consultant may be allowed to participate in the response if the LPA and VDOT determine that there is no conflict of interest. VDOT's Instructional and Informational Memorandum, [IIM-APD-2.2](#) should be consulted by the LPA when making this determination. At any time there is a perceived or potential conflict of interest, the LPA must consult with VDOT for assistance and concurrence.

D-B projects may be procured using various solicitation and award methods, including a single-phase RFP or two-phase Request for Qualifications/RFP process with best-value or low bid methods of award. The VDOT D-B

Procurement Manual provides detailed guidance on the acceptable procurement processes available for D-B projects.

As with other LAPs, the LPA may request that the VDOT Project Coordinator participate as non-voting member of selection team to offer support and technical guidance.

5.5.5 Quality Assurance and Quality Control

While quality assurance is an integral and important piece of any project, it is particularly important for D-B projects because of the unique contractual relationships between the owner, D-B contractor, design consultants, and construction contractors. Because of this, the Design-Builder must prepare and implement a Quality Assurance and Quality Control Plan (QA/QC Plan) under a Design-Build contract. The QA/QC plan must define the organization, work processes, and systems necessary to provide confidence and objective evidence that the design and construction of the facilities, components, systems, and subsystems that make up the project meet the contract requirements. **The D-B contractor must provide their QA/QC Plan to the LPA and VDOT Project Coordinator for their review and approval.** The D-B Quality Assurance Manager will be expected to present and submit the QA/QC Plan at the kick-off meeting with the LPA and VDOT after Notice to Proceed has been issued. Please refer to VDOT's Guide for "[Minimum Requirements for Quality Assurance and Quality Control on Design Build and Public-Private Transportation Act Projects](#)" for more discussion on how to develop an acceptable QA/QC plan.

5.5.6 Project Development and Risk

Project risk related to plan review and approval for Design-Build (D-B) projects differ from Design-Bid-Build (D-B-B) projects. With D-B-B the owner is the engineer of record so a much more thorough level of plan review and oversight are applied. For D-B-B all risk for design errors and omissions are the owner's responsibility. For D-B the engineer of record is the design-builder. The owner

has an oversight role when it comes to plan review but the design-builder is responsible through their QA/QC program and Quality Assurance Manager to ensure design and construction is performed in accordance with the contract documents. The risk of design errors and omissions are borne solely by the design-builder.

At the kick-off meeting after Notice to Proceed, the design-builder, the LPA, and applicable VDOT support staff will meet to discuss plan review requirements, timing, and responsibilities. This meeting should also be used to discuss roles and responsibilities and elements of the QA/QC plan and the overall plan to deliver the work in accordance with the contract documents.

5.5.7 State-aid Design-Build Appendix 5-A Submission Requirements

The LPA is required to submit the Appendix 5-A using a modified submission schedule that is different from the traditional D-B-B project. This modified submission schedule requires that an updated Appendix 5-A is submitted with each reimbursement request, prior to contract award, at key project phase milestones such as, but not limited to: prior to Right of Way and Construction authorizations, and/or with each individual work package. The level and frequency of Appendix 5-A submissions will be determined by the VDOT Project Coordinator and/or VDOT Construction Monitor at the kick-off meeting.

Depending on the development level of the project, there may be instances where the Appendix 5-A will not be applicable prior to the award of a D-B contract. In these unique situations, the LPA and the VDOT Project Coordinator will determine an alternate approach that will best fit the project needs and requirements.

Appendix 5-A

Certification Form for State Funded Projects

Project Number:

UPC:

This certification form is to be used to certify adherence to all applicable laws and regulations pertaining to locally administered state funded projects. This certification form will not be used for projects utilizing any federal funds. The signature at the bottom will certify that **<INSERT LOCAL GOVERNMENT NAME>** has met the following requirements for state funded projects. VDOT may perform project audits to verify compliance with this certification. False or inaccurate statements identified by VDOT or other state regulatory agencies may result in the requirement to return state aid and/or other penalties as allowed by State law.

Initials	Certification Statement
	Check applicable statement: <input type="checkbox"/> For highways maintained by the LPA, project plans have been designed in accordance with AASHTO standards and signed and sealed by a Virginia registered P.E. in accordance with DPOR; OR <input type="checkbox"/> For highways which will be operated and maintained by VDOT, project plans have been designed in accordance with VDOT Standards and that VDOT has reviewed the plans in accordance with the agreed upon schedule and all necessary design variances/waivers have been attained and the plans have been signed and sealed by a Virginia registered P.E. in accordance with DPOR.
	All required regulatory agency coordination has been made and applicable permits or approvals have been acquired.
	Where VDOT will operate and maintain the highway, that the LPA has performed appropriate due diligence to identify environmental hazards on new right of way and to the best of our knowledge, any existing environmental hazards have been identified and mitigated or a plan for mitigation during construction has been made.
	Project was developed in accordance with State laws and regulations governing public involvement so that adequate and appropriate public notice and opportunity for public comment was provided.
	All right of way has been obtained and that the LPA has legal right of entry onto each and every parcel for the advertisement and construction of the referenced Project.
	The LPA has complied with the Code of Virginia requirements pertaining to relocations and the acquisition of real property.
	All affected utilities have been relocated or companies authorized to relocate their facilities. If not, they are included as in-plan work to be performed by the road contractor.
	The project was advertised in accordance with the Virginia Public Procurement Act and that the advertisement package included all appropriate EEO provisions.
	All environmental regulations as are applicable to local government capital improvement projects and as required by State or federal laws applicable to non federal-aid projects have been met or provisions to meet continuing requirements during construction have been made.

<INSERT LOCAL GOVERNMENT NAME> acknowledges that failure to fulfill its legal obligations associated with those requirements identified in this certification may result in project delays and/or delays or forfeiture of State reimbursements. **<INSERT LOCAL GOVERNMENT NAME>** further acknowledges that obligations associated with those requirements identified in this certification may be subject to audit by VDOT or State oversight agencies.

Local Government Manager (City Manager, County Administrator, City Engineer or County Director of Public Works or designated authority to sign)

Date

cc: Project file
VDOT Project Coordinator
VDOT Local Assistance Director

[Click here for the WORD version of this form](#)